

Message Text

CONFIDENTIAL

PAGE 01 STATE 313675
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L-MR. FELDMAN

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FM SECSTATE WASHDC
TO AMEMBASSY OTTAWA PRIORITY

C O N F I D E N T I A L STATE 313675

E.O. 11652: GDS

TAGS: SENV, PBOR, CA

SUBJECT: U.S.-CANADIAN BOUNDARY/FISHERIES NEGOTIATIONS

REF: STATE 310498

1. DEPUTY ASSISTANT SECRETARY VINE CALLED IN CANADIAN
POLITICAL COUNSELOR TURNER DECEMBER 30 AND GAVE HIM AIDE-
MEMOIRE ON FISHERIES IN RESPONSE TO CANADIAN AIDE-MEMOIRE
REPORTED REFTEL. FULL TEXT IS SET FORTH BELOW.

2. BEGIN TEXT --

THE DEPARTMENT OF STATE HAS STUDIED THE EMBASSY OF CANADA'S
AIDE-MEMOIRE OF DECEMBER 22, 1976, REGARDING MUTUAL
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 STATE 313675

RESTRAINT BY GOVERNMENTS IN CONNECTION WITH THE IMPLEMENTA-
TION OF THE RESPECTIVE FISHERIES ZONES.

THE DEPARTMENT IS PLEASED TO LEARN THAT THE GOVERNMENT OF
CANADA IS PREPARED TO ACT WITH RESTRAINT WITH RESPECT TO THE
APPLICATION OF CANADIAN LAW TO UNITED STATES FISHERMEN.

IN THE DEPARTMENT'S VIEW, SUCH ACTION ON THE PART OF CANADIAN AUTHORITIES WILL HELP MAINTAIN AN ATMOSPHERE HELPFUL TO THE ONGOING NEGOTIATIONS.

THE DEPARTMENT OF STATE WISHES TO ASSURE THE GOVERNMENT OF CANADA THAT THE GOVERNMENT OF THE UNITED STATES HAS THE LEGAL AUTHORITY AND IS READY FOR THE TIME BEING TO EXERCISE FORBEARANCE ON THE BASIS OF RECIPROCITY IN THE AREA BETWEEN THE BOUNDARY LINES PUBLISHED BY THE TWO GOVERNMENTS TO FACILITATE FISHERIES AND BOUNDARY NEGOTIATIONS BETWEEN THE TWO COUNTRIES.

WITH RESPECT TO THE AREA OUTSIDE THOSE LINES THAT WILL COME UNDER UNITED STATES FISHERY JURISDICTION ON MARCH 1, 1977, THE EXERCISE OF FORBEARANCE BY THE UNITED STATES GOVERNMENT INVOLVING DEPARTURES FROM THE FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976 WOULD REQUIRE A TREATY OR OTHER LEGISLATIVE ACTION.

ABSENT SUCH CONGRESSIONAL ACTION, AS OF MARCH 1, 1977, CANADIAN FISHING IN THE UNITED STATES FISHERY CONSERVATION ZONE, EXCEPT IN AREAS BETWEEN THE LINES THAT HAVE BEEN PUBLISHED BY THE TWO GOVERNMENTS, MUST TAKE PLACE IN

ACCORDANCE WITH UNITED STATES LAW. IN ANY EVENT, AFTER MARCH 1, 1977, CANADIAN FISHING IN THE UNITED STATES FISHERY CONSERVATION ZONE NEEDS TO BE PURSUANT TO AN INTERNATIONAL AGREEMENT WHICH RECOGNIZES UNITED STATES JURISDICTION SOUTH OF THE EQUIDISTANCE LINE.

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 STATE 313675

THE DEPARTMENT OF STATE APPRECIATES THAT ABSENT RECIPROCITY BY THE UNITED STATES, WHICH WOULD REQUIRE MODIFICATION OF UNITED STATES LAW BY TREATY OR OTHER LEGISLATIVE ACTION, THE GOVERNMENT OF CANADA MIGHT REQUIRE THAT AMERICAN FISHING WITHIN CANADA'S FISHERIES JURISDICTION OUTSIDE THE AREA CLAIMED BY BOTH COUNTRIES TAKE PLACE IN ACCORDANCE WITH CANADIAN LAW. THE EMBASSY WILL APPRECIATE THAT THE UNITED STATES GOVERNMENT DOES NOT RECOGNIZE THE AUTHORITY OF ANY OTHER GOVERNMENT IN ANY PART OF THE FISHING CONSERVATION ZONE CLAIMED BY THE UNITED STATES.
-- END TEXT.

3. IN HANDING OVER THE AIDE-MEMOIRE VINE SAID THAT WE APPRECIATED THE SENSE OF COOPERATION EVIDENT IN THE CANADIAN AIDE-MEMOIRE AND WANTED TO RESPOND IN A SIMILAR VEIN PRIOR TO JANUARY 1. TURNER SAID THE U.S. RESPONSE CONTAINED NO SURPRISES AND REFLECTED THE CANADIAN UNDERSTANDING OF THE CONVERSATION BETWEEN ASSISTANT SECRETARY

HARTMAN AND AMBASSADOR WARREN LAST WEEK. HE WELCOMED THE U.S. RESPONSE AND CHARACTERIZED IT AS GENERALLY POSITIVE. VINE EMPHASIZED THAT THIS WAS THE INTENT AND ALSO GAVE TURNER A NOTE DESCRIBING RESTRAINT BEING EXERCISED BY THE USG WITH REGARD TO HYDROCARBON DEVELOPMENT IN THE DISPUTED

AREA. TEXT OF THE NOTE BEING SENT SEPTTEL.

4. VINE TOOK THE OPPORTUNITY TO REITERATE OUR INABILITY TO UNDERSTAND CANADIAN UNWILLINGNESS TO DATE TO COME TO GRIPS WITH BOUNDARY ISSUES (SEE PARA 4 REFTTEL). TURNER RESPONDED THAT THIS POINT WAS REPORTED FOLLOWING LAST WEEK'S MEETING WITH ASSISTANT SECRETARY HARTMAN. WHILE TURNER HAD NO NEW INSTRUCTIONS ON THE BOUNDARY QUESTION, THE INSTRUCTIONS PROVIDED THE CANADIAN EMBASSY IN PREPARATION FOR LAST WEEK'S MEETING AUTHORIZED AN EXPRESSION OF HOPE THAT "MORE FORMAL BOUNDARY NEGOTIATIONS COULD BE RESUMED IN THE NEAR FUTURE.
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PAGE 04 STATE 313675

5. ON THE QUESTION OF TIMING, DEPUTY LEGAL ADVISER FELDMAN NOTED THAT CERTAIN CONGRESSIONAL PROCEDURES MUST BE OBSERVED. THE INTERIM AGREEMENT WE HAVE BEEN ATTEMPTING TO NEGOTIATE WOULD REQUIRE AFFIRMATIVE CONGRESSIONAL ACTION AND THE JANUARY 17 TALKS DO NOT LEAVE MUCH TIME. EVEN A GOVERNING INTERNATIONAL FISHERIES AGREEMENT (GIFA) WOULD HAVE TO LIE BEFORE CONGRESS FOR 60 DAYS BEFORE IT TOOK EFFECT.
ROBINSON

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